UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/064,011	06/04/2002	Timothy G. Deboer	CA920010048US1	7212

877	7590	10/13/2006

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EXAMINER
KHATRI, ANIL

ART UNIT	PAPER NUMBER
2191	

DATE MAILED: 10/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>21 July 2006</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-25</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-25</u> is/are rejected.

7)☐ Claim(s)_____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)		4)☐ Interview Summary (PTO-413)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)		Paper No(s)/Mail Date. _____.
3)☐ Information Disclosure Statement(s) (PTO/SB/08)		5)☐ Notice of Informal Patent Application
Paper No(s)/Mail Date _____.		6)☐ Other: _____.

DETAILED ACTION

Applicant's arguments with respect to claims 1-25 have been considered but are moot in view of

the new ground(s) of rejection.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or
> any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and
> requirements of this title.

Claim 15 is rejected under 35 USC 101 because they disclose a claimed invention that is an

abstract idea as defined in the case *In re Warmerdam*, 33, F 3d 1354, 31 USPQ 2d 1754 (Fed.

Cir. 1994).

Analysis: Claim 15 disclosed by the applicant as being a "versioning tool for preparing

application..." . Since the claims are each a series of steps to be performed on a computer the

processes must be analyzed to determine whether they are statutory under 35 USC 101.

Examiner interprets that the claim 15 is non-statutory because it only recites a versioning

tool with program code for packaging files...". Applicant submits no substance that how this will

be processed without incorporating a processor, memory and medium so its functionality can be

realized. Therefore, claim 15 is an program per se for manipulation of code for packaging file.

Thus, claim 15 is non-statutory and rejected under 35 USC 101.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Gupta et al*

USPN 6,868,448 is taken with *Mann et al* USPN 6,922,722.

Regarding claims 1, 8, 15 and 20

Gupta et al teaches,

application and server configuration data, server configuration data comprising data to

configure servers for application (figures 5-7, column 6, lines 37-47, "transferred to the local...

application server");

configuring servers with server configuration data (column 6, lines 58-65, "the local

application server can be configured... to the requester"); and

executing servers and application, wherein the server configuration data

transferred to the plurality of servers is the same for each server (column 6, lines 67-68, "the

local application server...", column 7, lines 1-5, application code... if any"). Gupta et al does not

teach explicitly transferring to plurality of servers a package. However, *Mann et al* teaches

(column 18, lines 4-19, "in response to receiving... made possible"). Therefore, it would have

been obvious to a person of ordinary skill in the art at the time of the invention was made to

incorporate transferring data and packages. The modification would have been obvious because

one of ordinary skill in the art would have been motivated to combine transferring package and

application to the configured server based on configured data dynamically to achieve efficiency.

Regarding claims 2 and 21

Gupta et al teaches,

selecting one of one or more server configuration files; selected one adapted to

configure servers (column 6, lines 28-36, "if a request is for... clients request); and

configuring servers with selected one of one or more server configuration files

(column 6, lines 1-18, "one or more embodiments provides... for a particular application").

Regarding claim 3, 10, 11, 19, 22 and 23

Gupta et al teaches

providing some of one or more server configuration files with versions of one server

configuration file (column 13, lines 36-47, "application locator 502...application software").

Regarding claims 4, 5, 12 and 24

Gupta et al teaches

providing each of versions of one server configuration file with data associating each of

versions with a version of application (column 14, lines 46-56, "as an alternative to application

locator... from webtop server").

Regarding claims 6, 13, 16 and 25

Gupta et al teaches

providing at least one of one or more server configuration files with a first server

configuration file adapted to configure a first server and further comprising a step of providing

another of one or more server configuration files with a second server configuration file adapted

to configure a second server (column 18, lines 23-46, "using above services is a local... is not

required").

Regarding claims 7 and 14

Gupta et al teaches

providing at least one of one or more server configuration files with a first server

configuration file adapted to configure a first server for execution on a first computer system

platform and further comprising a step of providing another of one or more server configuration

files with a second server configuration file adapted to configure first server for execution on a

second computer system platform (column 11, lines 43-55, "when a client request application

software... and 430A-430C").

Regarding claims 17-18

Gupta et al teaches

step of providing associating with embedding association data within version of server

configuration file linking version of server configuration file with application (column 13, lines

51-60, "when an applet is changed... for example").

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anil Khatri whose telephone number is 571-272-3725. The examiner can normally be reached on M-F 8:30-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wei Zhen can be reached on 571-272-3708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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ANIL KHATRI
PRIMARY EXAMINER